



**UNITED STATES DEPARTMENT OF COMMERCE**  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/312,811	05/17/99	GIARDELLO	M PM-0261607

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IM22/0927

EXAMINER

TESKIN, F

ART UNIT	PAPER NUMBER
1713	4

DATE MAILED: 09/27/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/312,811**

Applicant(s)  
**Giardello, et al.**

Examiner  
**Fred Teskin**

Group Art Unit  
**1713**



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire one (1) month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-24 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-24 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2, 3

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit 1713

1. Claims 1-24 are currently pending.
2. Claims 1 and 2 are generic to a plurality of disclosed patentably distinct species comprising: the polyolefin/modulator compositions of Examples 3-8, 12, 14-21 and 25. The disclosed species are considered patentably distinct in that they are not so closely related, chemically and structurally, that a prior art reference anticipating the claims with respect to one of the species would render the claims obvious (35 U.S.C. 103) with respect to the other species.
3. Claims 18-21 are generic to a plurality of disclosed patentably distinct species comprising: the diverse articles of manufacture as disclosed on page 9, line 22 to page 10, line 15.
4. Applicants are required under 35 U.S.C. § 121 to provisionally elect a single disclosed species of composition and article, even though this requirement may be traversed. The provisional election will be given effect in the event the Markush-type claims should be found non-allowable. See MPEP 803.02. The election should include a listing of all claims readable on the elected species, including any claims subsequently added.


Art Unit 1713

Should applicants traverse on the ground that the species are not patentably distinct, applicants should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

5. Any inquiry concerning this communication should be directed to Examiner F. M. Teskin whose telephone number is (703) 308-2456.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached on (703) 308-2450. The appropriate fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

  
FRED TESKIN  
PATENT EXAMINER  
ART UNIT 155 1713

FMTeskin/09-24-00